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MICHAEL RODAK, JR.

In The

Supreme Court of the United States

OCT Term 1973

No. 73 - 1618

WILLIAM J. DAVENPORT,

Petitioner,

vs.

BENJAMIN ALTMAN, DANIEL W. JOY, HARRY MICHELSON, et al.,

Respondents.

PETITIONER'S REPLY TO OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.

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The purpose of this document :

Respondent's statements to this court in opposition to a writ of certiorari are to petitioners knowledge contradictory to fact and their prior claims, and appear to be contumacy for the purpose of manipulating judgement of this high court to contravene the law.

THE QUESTION, which is presented in this litigation is whether "ab initio" respondents perpetrated a fraud upon petitioner, and have subsequently perpetrated and maintained a fraud upon the courts, The question has been denied recognition by the lower courts.

The sole opposition respondent offers to this application is "res judicata", which defense is barred by F.R.C.P. 60(b). Thus once the courts grant recognition to the question, either in this litigation or in re-submission, for the first time the facts of record will be required as the basis of judgement on merit of the substantive issues. The title of complaint in this litigation as placed before the district court is " COMPLAINT AND PETITION FOR THE ORIGINAL HEARING AND DETERMINATION OF FACT LAWFULLY REQUIRED AS DUE PROCESS OF LAW." . Exerpts from the first three paragraphs of the complaint are hereto attached as appendix pages numbered 48a and 49a

As to respondent's reference to prior litigation, this court is reminded that plaintiff-petitioner was unlawfully denied access to the "original administrative records" which were held secret by respondent from 1963 through July 1971, which period includes all prior litigation. The subpoena's seeking access were quadhed by the courts on respondents false claims.

Of respondents " FACTS" misrepresantation in the first three paragraphs on page two seeks to manipulate the judgement of this court.

Respondent states applicability of New York City Administrative codes of 1962 to petitioner's acts between 1954 and 1961.

Respondent states the lawful exemption requirement to be "at least" one year of occupancy seeking to pervert the specification of the statute and hide the false "two" year claim previously advanced.

Respondent refers in his second paragraph to "contrary findings", "Administrative determinations" and "de novo administrative review". None of which in fact occurred or are of record. Respondent attorney is of much experience, and claims to represent a "quasi-judicial" administrative action with a statement which appears contumacious in the extreme.

Respondents reference to judicial review in his third and fourth paragraphs in the New York State Supreme Court and federal district court falsely imply an examination to determine fact. The records will show that in each instance petitioner entered a complaint with a motion seeking a temporary order of injunctive relief. In each instance, without examination of the records or witnesses, without hearing on the issues or trial; the court acted on

assuming verity of respondents false certifications in cross-motions, to dismiss the action.

THEREFORE

This petition for certiorari should be granted.

Dated JUN. 5 1974.

Respectfully submitted,

William J. Davenport
Pro-se petitioner
324 Allaire Ave.
Leonia, N.J. 07605

Appendix

Exerpts from:

COMPLAINT AND PETITION FOR THE ORIGINAL HEARING AND DETERMINATION OF FACT LAWFULLY REQUIRED AS DUE PROCESS OF LAW.

1. Plaintiff Wm. J. Davenport, pro se brings this action before this court as a matter of actual unresolved controversy seeking to terminate and correct a calumny and a fraud by effecting a hearing which will be a first and original hearing of the issues hereto involved, that the facts might be determined, the law .... stated, ... and the involved New York State Rent Control Law given factual preformance.

2. The purpose of this action is to place clearly before this court issues which have previously been before this court and not recognized, and to rectify errors of this court which have been induced by fraudulent misrepresentation of fact, law, prior proceedings, and prior determination of the courts by the General Counsel and the New York City Rent Administrator. .....
..... . Thus there has been no proceeding of due process, and no consideration on the merits of this complaint. The assumption of the court ..... was entirely dependant upon false allegations presented by defendant counsel and unverified by this court.

3. Thus as indicated in the foregoing paragraphs this court has erred to assume verity of defense allegations of the New York City Rent Administration, and so

erring has provided its authority with concuspidence to maintain a criminal fraud by agents of government contrary to U.S.C. Title 18, Chapt. 13, § 241 and 242. Which error it is the lawful responsibility and duty of this court to locate and correct.